

REMARKS

Applicant has carefully reviewed and considered the Office Action of 1 March 2011. In response, applicant has canceled claims 1-20 and presented new claims 21-30 for consideration by the Examiner. No new matter has been added. This document is being submitted with a Three Month Extension of Time. All documents are timely filed and should be entered of record.

A. THE OBJECTION TO THE DRAWING FIGURES UNDER 37 C.F.R. §1.83(a)

Applicant submits herewith revised drawing Figures 4-6 which now include additional reference numbers identifying the end portions 24, 25 of the cable, the tubular member or trunion 33, the rotatable bushings 36, 37, the plates 42 and the clevises 46. No new matter is involved and the drawing figures remain otherwise unchanged. It is respectfully submitted that the amended drawing figures overcome the objection under 37 C.F.R. §1.83(a) which should now be withdrawn.

B. THE REJECTION OF CLAIMS 1-4, 6-12 AND 14-20 UNDER 35 U.S.C. §112, SECOND PARAGRAPH FOR INDEFINITENESS

With the cancellation of original claims 1-20, this rejection is now moot. It is respectfully submitted that the new claims meet all the requirements of 35 U.S.C. §112.

C. DOUBLE PATENTING ISSUE

With the cancellation of original claims 1-10, the double patenting issue has now been rendered moot.

D. **THE REJECTION OF CLAIMS 1, 3, 4, 6, 7, 10, 17, 19 AND 20 UNDER 35 U.S.C. §103(a) AS BEING UNPATENTABLE OVER U.S. PATENT 844,288 TO PURDY WHEN CONSIDERED IN COMBINATION WITH PUBLISHED U.S. PATENT APPLICATION 2005/0023113 TO KARNES**

On page 5 of the Office Action it is explicitly stated that the Purdy reference, "...fails to teach rotatable bushings on the transmission member." It is then stated that the Karnes reference teaches, "...including on a drive chain, a bushing member (152) between the connecting members (104) and the transmission members (111, 115) so that the connecting members can rotate freely about the pin (118) axis." It is then stated that it would have been obvious for one skilled in the art to have modified the cable assembly of Purdy to include a bushing member as taught by Karnes.

Section 2143.03 of the Manual of Patent Examining Procedures provides that, "[t]o establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art," and that "all words in a claim must be considered in judging the patentability of that claim against the prior art."

That section further states that, "[t]he mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." See *In re Laskowski*, 871 F2d 115, 116, 10 USPQ2d 1397, 1399 (Fed. Cir. 1989) citing *In re Gordon*, 733 F2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984).

MPEP §2141.02VI, further states, "**PRIOR ART MUST BE CONSIDERED IN ITS ENTIRETY, INCLUDING DISCLOSURES THAT TEACH AWAY FROM THE CLAIMS**" (capitalization and bold typed in original). Further, MPEP §2143.01V and VI explicitly state that, "**THE PROPOSED MODIFICATION CAN NOT RENDER THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE**" and "**THE PROPOSED MODIFICATION CAN NOT CHANGE THE PRINCIPAL OF OPERATION OF A REFERENCE**" (capitalization and bold type in original).

At page 1 lines 47-61 the primary reference to Purdy explicitly teaches securing the ends of the rungs or power transmission members (R, R') to the couplings (B, B') and against displacement by means of spring key pins (P). At page 1, line 105 to page 2, line 5 the Purdy reference teaches that this construction enables the sprocket wheels to “engage the rungs on both sides of the eye-heads” and to “make and use a rung of the plainest form, consisting simply of a cylindrical rod formed only with the transverse holes.”

Thus, it should be appreciated that the Purdy reference explicitly teaches a device wherein the ends of the power transmission member are pinned to the coupler “against displacement”. Modifying the Purdy reference to provide rotatable coupling elements at the ends of the power transmission member is contrary to the explicit teachings of the Purdy reference. Stated another way, the Purdy reference teaches away from the proposed modification. Thus, the proposed modification is contraindicated.

In fact, the proposed modification forces one to provide “retaining-shoulders or similar devices” on the rung to prevent longitudinal movement. See, for example, the retaining rings 44 in Figure 6 of the current application. These are structures that it is explicitly sought to avoid using in the Purdy design. See Purdy at page 1 lines 96-105 and page 2 lines 1-5. Further, the Purdy reference is explicitly designed to provide the rung in engagement with sprocket wheels “on both sides of the eye-heads” so providing rotatable bushings on the ends of the power transmission member would effectively serve no purpose in the Purdy device.

Based upon these comments it is seen that the proposed modification renders the Purdy reference unsatisfactory for its intended purpose (i.e. the elimination of retaining shoulders on the power transmission member or rung and the use of a rung of the plainest form, consisting simply of a cylindrical rod) and changes the principle of operation of the reference (i.e. provides a power transmission member with displaceable or rotatable bushings that include retaining shoulders or similar devices). In other words, the proposed

combination of references would “require a substantial reconstruction and redesign of the elements shown in the primary reference to Purdy as well as a change in the basic principle under which the construction of Purdy was designed to operate.

It is respectfully submitted that based upon these comments the Examiner has failed to provide a *prima facie* basis for the rejection of new independent claim 21 as well as claims 22-31 dependent thereon.

E. THE REJECTION OF CLAIMS 2, 12, 14 AND 18 UNDER 35 U.S.C. §103(a) BASED UPON A COMBINATION OF THE PURDY AND KARNES REFERENCES WITH U.S. PATENT 538,895 TO CASGRAIN

The Casgrain reference is cited for its teaching relating to the use of a wheel with recesses, grooves and teeth for driving a power transmission band. It is respectfully submitted that the Casgrain reference does not address the shortcomings noted above with respect to the combination of the primary reference to Purdy with the Karnes reference. Accordingly, it is respectfully submitted that these references, even when considered in combination, do not provide a proper basis for the rejection of any of the currently pending claims.

F. THE REJECTION OF CLAIMS 8 AND 9 UNDER 35 U.S.C. §103(a) BASED UPON A COMBINATION OF THE PURDY AND KARNES REFERENCES WITH PUBLISHED U.S. PATENT APPLICATION 2004/0083607 TO CAMPBELL

The Campbell reference is cited for its disclosure teaching the securing of the end of a cable using swaging. It is respectfully submitted that the Campbell reference does not address the shortcomings noted above with respect to the combination of the Purdy and Karnes reference and, accordingly, this combination of three references does not support a rejection of any of the currently pending claims.

G. **THE REJECTION OF CLAIMS 15 AND 16 UNDER 35 U.S.C. §103(a) BASED UPON A COMBINATION OF THE PURDY, KARNES, CASGRAIN AND CAMPBELL REFERENCES**

As noted above, the secondary references to Casgrain and Campbell fail to address the shortcomings noted above with respect to the combination of the Purdy and Karnes references. Accordingly, even when considered in combination these four references do not provide a proper basis for the rejection of any of the pending claims which should be allowed.

H. **CONCLUSION**

In summary, it is believed that all the pending claims patentably distinguish over the prior art and should be allowed. Upon review and consideration it is believed the Examiner will agree with this proposition. Accordingly, the early issuance of a formal Notice of Allowance is earnestly solicited. *To the extent any fees are due beyond those expressly authorized in the accompanying petition for three (3) month extension of time to respond to the pending office action, the undersigned authorizes their deduction from deposit account no. 11-0978.*

Respectfully submitted,

King & Schickli, PLLC



Warren D. Schickli
Registration no. 31,057

247 North Broadway
Lexington, Kentucky 40507
(859) 252-0889

Serial No. 10/583,485

Response dated August 31, 2011

Response to Office Action of March 1, 2011

APPENDIX